



408496



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

RECEIVED

JUL 21 1988

EMERGENCY &
REMEDIAL
RESPONSE BRANCH
REPLY TO THE ATTENTION OF:

05701

JUL 7 1988

5HR

URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
CERTIFIED MAIL: RETURN RECEIPT REQUESTEDIMF, INC.
7848 N. MARAMACK AVE.
MORTON GROVE, IL 60053*See last page of
this letter*Re: Ninth Avenue Dump
Gary, Indiana (the "Site")
Special Notice of Potential Liability

Dear Sir or Madam:

Recd 7/17/88

This letter is being sent to you as the listed contact person for the potentially responsible party (PRP) identified above. This letter follows upon a notice letter issued by the United States Environmental Protection Agency (U.S. EPA or the "Agency") and the Indiana Department of Environmental Management (IDEM) in connection with the above referenced Site to you and approximately 240 other parties on March 9, 1988. This letter contains a formal demand for reimbursement of costs, including interest thereon, that have been incurred in response to the environmental problems at the Site. This letter also provides notice of a period of negotiations seeking your company's voluntary participation in performance or financing of the remaining response actions necessary at the Site. Finally, this letter provides information describing the involvement of other PRPs with the Site to assist you in participating in these negotiations.

U.S. EPA has documented the release or threatened release of hazardous substances, pollutants or contaminants at the above referenced Site. U.S. EPA has spent and is considering spending public funds on actions to control such releases or threatened releases at the Site. Unless U.S. EPA reaches an agreement under which a responsible party or parties will properly perform or finance such actions, U.S. EPA will itself perform these actions pursuant to Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9601 et seq. (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499 (SARA).

Under Section 106(a) of CERCLA, Section 107(a) of CERCLA, 42 U.S.C. §9906(a) and 9907(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. §6973 (RCRA), and other laws, responsible parties

may be obligated to implement relief actions deemed necessary by U.S. EPA to protect public health, welfare or the environment and may be liable for all costs incurred by the government in responding to any release or threatened release at the Site. Such costs may include, but are not limited to, expenditures for investigation, planning, response and enforcement activities.

As indicated in the notice letter previously issued to you, U.S. EPA has information indicating that you are a PRP with respect to the Site. By this letter, U.S. EPA encourages you, as a PRP, to reimburse EPA for the costs incurred to date and to voluntarily perform or finance the response activities described below that U.S. EPA has determined are required at the Site.

DEMAND FOR PAYMENT OF COSTS INCURRED TO DATE

In accordance with CERCLA and other authorities, U.S. EPA has already completed a Remedial Investigation (RI) to determine the nature and extent of contamination at the Site. A Phased Feasibility Study (PFS), considering alternatives necessary to address an oil phase on the ground water has also been completed. A final Feasibility Study addressing ground water and soil contamination is ongoing and will be completed in the winter of 1988. These activities are being performed by the United States Army Corps of Engineers under an interagency agreement with the U.S. EPA. In addition, several response actions have been taken at the Site by local, Federal, and State authorities including a drum removal and preliminary cleanup by the site owner and construction of a fence to protect the public from contaminated surface soils. The cost to date of these actions exceeds \$2 million.

The Agency anticipates expending additional funds for response actions at the Site under the authority of CERCLA and other laws, including those response activities described below. In accordance with Section 107(a)(4)(D) of CERCLA, as amended by Section 107(b) of SARA, demand is hereby made for payment of the above amount plus any and all interest authorized to be recovered under that Section or under any other provisions of law. All rights are reserved under these authorities to seek payment of all future costs and interest on those costs that U.S. EPA may accrue in regard to the Site.

SPECIAL NOTICE OF NEGOTIATION PROCEDURES

U.S. EPA is planning to design and implement a remedial action to protect wetlands surrounding the Site from migration of contaminated oil, and to provide any monitoring, operation and maintenance necessary at the Site after the remedial action is completed. In addition to these actions, U.S. EPA may, pursuant to its authorities under CERCLA and other laws, decide that other cleanup activities are necessary to protect public health, welfare, or the environment. Additional cleanup actions are currently being evaluated in the final Feasibility Study.

U.S. EPA has determined that a period of negotiations may facilitate an agreement with responsible parties for taking the necessary response actions at the Site and may thereby expedite remedial action. U.S. EPA is therefore providing notice to PRPs of the availability of a negotiation period under the Special Notice provisions of Section 122 of SARA. Specifically, U.S. EPA will not commence cleanup activities under Section 104(a) of CERCLA or enforcement action in connection with the Site under Section 106 of CERCLA, other than those activities authorized under Section 122(e)(2)(A) and 122(e)(5) of SARA, for 120 days, beginning with the receipt of this notice. During this moratorium period, U.S. EPA hopes to negotiate an agreement with responsible parties for performance of the response activities described above. This Special Notice does not preclude the Agency's performing other studies or investigations, including remedial design activities under Section 104(b) of CERCLA.

Under the terms of Section 122(e) of SARA, responsible parties have sixty days from receipt of this notice in which to make a good faith proposal in writing to perform or finance the response activities. Any such proposal should be sent to:

Allison Hiltner (5HR-11)
U.S. Environmental Protection Agency
Waste Management Division
Site Management Section
230 South Dearborn Street
Chicago, Illinois 60604
Telephone: (312) 353-6417

If you have an attorney representing you in this matter, please direct his or her questions to Edward Kowalski of the U.S. EPA Office of Regional Counsel at (312) 886-6632.

To facilitate negotiations, U.S. EPA held a meeting on June 9, 1988 to discuss site conditions and the response actions that have been taken at the site. At that meeting, U.S. EPA asked that the PRPs appoint a committee to represent them in negotiations. This committee should contact U.S. EPA to set up a meeting. At this time, a draft consent decree will be distributed. Because of the large number of PRPs, the Agency will not negotiate with individual persons or companies, but rather will negotiate with members of the committee.

If a good faith proposal is submitted by responsible parties within the sixty day period, U.S. EPA will extend the negotiation moratorium period an additional sixty days in an attempt to reach an agreement with those parties. Any agreement reached for the performance or financing of the response actions at the Site will be embodied in a consent decree containing the terms and provisions of Section 122 of SARA.

Except in extraordinary circumstances explained in a written request, no extension of the 120 day period will be considered by the Agency. If U.S. EPA determines that a good faith proposal has not been submitted within the first sixty days of the moratorium period, U.S. EPA may thereafter terminate the negotiation moratorium period pursuant to Section 122(e)(4) of SARA and commence such cleanup or enforcement actions as may be appropriate given the status of the negotiations.

INFORMATION TO ASSIST RESPONSIBLE PARTIES

U.S. EPA would like to encourage good faith negotiations between you and the Agency and among you and other parties potentially responsible for the Site. To assist responsible parties in preparing a proposal and in negotiating with U.S. EPA concerning this matter, U.S. EPA is providing a list of the names and addresses of PRPs to whom this notification is being provided. This list represents U.S. EPA's preliminary findings on the identities of PRPs. Inclusion on or exclusion from this list does not constitute a final determination by the Agency concerning the liability of any party for the hazard or contamination at the Site.

Please be advised that U.S. EPA has determined that this list is an investigatory record compiled for law enforcement purposes. The public release of these records may interfere with enforcement proceedings and disclose investigatory techniques and procedures. As such, the records are exempt from mandatory disclosure under the investigatory records exemption of the Freedom of Information Act, 5 U.S.C. §522(b)(7). Nevertheless, a limited disclosure of these records has been made in order to further the settlement negotiations and to encourage communication among the parties. These records have been provided as a discretionary release of information to the PRPs, and they should not be disclosed further or made publicly available in any context unless you are given prior approval by U.S. EPA.

In order to assist PRPs in becoming familiar with site conditions and the analysis of alternatives for remediation of the oil phase, the following information is available:

1. A Remedial Investigation (RI) report, defining the nature and extent of contamination at the Site.
2. A Phased Feasibility Study (PFS), an analysis of the alternatives for remediation of an oil phase on the ground water under the Site.
3. A Proposed Plan, discussing the Agency's preferred alternative.

All of these documents, along with an Administrative Record containing documents forming the basis for the Agency's remedial action decision, were released to the public on July 5, 1988. This date marks the beginning of a 30 day public comment period on remediation of the oil phase. These documents are available for public review at Gary City Hall at 401 Broadway in Gary, Indiana and at U.S. EPA Region V.

The factual and legal discussions in this letter are intended solely to provide notice and information, and such discussions are not to be construed as a final Agency position on any matter set forth herein. Due to the seriousness of the environmental and legal problems posed by conditions at the Site, U.S. EPA urges that immediate attention and a prompt response be given to this letter.

By copy of this letter, U.S. EPA is notifying the State of Indiana and the Natural Resources Trustee of our intent to perform or enter into negotiations for the performance or financing of response actions at the Site.

Sincerely,

Norman Spindler
Mary A. Gade, Acting Director
Office of Superfund

Enclosure

cc: Sheila Huff, DOI
Arthur Carter, IDEM

cc: Ms A. Gade

*I have retired from bus. approx. 12 yrs ago.
all I have is a sales office in my bldg at 7848
N. Merrimac that really is not used.
My residence is in Florida where I have
retired*

Sincerely

Robert H. Neher



MORTON GROVE

SENDER: Complete Items 1 and 2 when additional services are desired, and complete Items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. <input type="checkbox"/> Show to whom delivered, date, and addressee's address. ↑(Extra charge)↑	2. <input type="checkbox"/> Restricted Delivery ↑(Extra charge)↑
--	---

3. Article Addressed to: IMF, INC. 7848 N. MARAMACK AVE. MORTON GROVE, IL 60053	4. Article Number <i>P68016785J</i> <hr/> Service: <input type="checkbox"/> Insured <input type="checkbox"/> COD Registered Mail <hr/> Obtain signature of addressee and <u>DATE DELIVERED</u> . <hr/> 8. Addressee's Address (<u>ONLY if requested and fee paid</u>) <div style="border: 1px solid black; padding: 10px; width: fit-content; margin: 10px auto;">05702</div>
5. Signature — Addressee X	
6. Signature — Agent X <i>Edie Dunn</i>	
7. Date of Delivery <i>7-17-85</i>	